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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,411	07/23/2004	Uwe Skultety-Betz	3040	5780
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			EXAMINER RATCLIFFE, LUKE D	
			ART UNIT 3662	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/502,411	SKULTETY-BETZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Luke D. Ratcliffe	3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 July 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

All previous 112 rejections have been overcome by the amendment submitted on 12/8/06.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 1, 6, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunne (5949529).**

Referring to **claims 1 and 11**, Dunne shows a handheld laser distance measuring device with a position sensor (column 6 lines 58-column 7 line 3), and the position sensor is connected with a signal transducer that emits a perceptible signal which depends on the special orientation (column 6 lines 58-column 7 line 3). Dunne also shows a signal transducer that is an optical signal transducer, an acoustic signal transducer, or a tactile signal transducer (column 6 lines 58-column 7 line 3).

Referring to **claim 6**, Dunne shows an acoustic signal wherein the volume, pitch, frequency of recurrence and/or duration of which are a function of the special orientation (column 6 lines 20-35).

Referring to **claim 8**, Dunne shows a position sensor that is a tilt sensor (column 6 lines 58-column 7 line 3).

Referring to **claim 9**, Dunne shows that to trigger the signal transducer as a function of the spatial orientation, a control unit is provided which is connected with the position sensor on the input side and with the signal transducer on the output side (column 6 lines 58-column 7 line 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunne (5949529).**

Referring to claim 7, It would be obvious to use a tactile signal transducer because this is the other obvious sense to use if the senses of sight and hearing are occupied or if the users hearing and sight is impaired. Dunne teaches using an audible signal that varies in intensity and/or frequency or recurrence, which is a function of special orientation, and the mere introduction to this stimulus to another sense is obvious.

**Claims 3-5, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunne (5949529) in view of Heironimus (6037874).**

Referring to **claims 3, 4, and 12**, Dunne shows a handheld laser distance measuring device with a position sensor (column 6 lines 58-column 7 line 3), and the

position sensor is connected with a signal transducer that emits a perceptible signal which depends on the special orientation (column 6 lines 58-column 7 line 3). Dunne shows a signal transducer that is an optical signal transducer, an acoustic signal transducer, or a tactile signal transducer (column 6 lines 58-column 7 line 3). However Dunne dose not shows using an optical signal transducer. Dunne also teaches the signal transducer to be altered in frequency being equivilant in both an audible and visual signal as dictated by the position sensor (column 6 lines 58-column 7 line 3).

Heironimus however does show using an optical signal transducer (column 7 line 65-column 8 line 23). Heironimus also teaches changing the frequency of the blinking light with respect to a position sensor. It is inherent that the light will be in the visible wavelength range in order for the device to function. It would have been obvious to modify Dunne to use the optical signal transducer so the device can fit the needs of the hard of hearing.

Referring to **claim 5**, Dunne shows an optical signal transducer that serves to measure distance (column 3 line 6-15).

Referring to **claim 10**, using a comparator and threshold is well known for triggering any signal in a distance measuring device and adds no new or unexpected results.

#### ***Response to Arguments***

Applicant's arguments filed 12/8/06 have been fully considered but they are not persuasive.

The argument that the applicant made was that Dunne does not teach a position sensor. Position is defined as "A description of where something is located with respect to the surroundings" and the definition of a sensor is "a mechanical device sensitive to light, temperature, radiation level, or the like, that transmits a signal to a measuring or control instrument." Since a tilt sensor gives a description of where the user of the compass is with respect to the level of tilt that the user is encountering due to its surroundings and a tilt sensor is also a mechanical device that uses gravity to transmit a signal to the control instrument of Dunne, Dunne teaches the claimed invention.

The applicant also argues that the tilt sensor and the acoustic signal transducer serve primarily to give information about the orientation of the compass module and therefor do not constitute a "laser distance measuring device, with a position sensor (22) for determining the spatial orientation of the distance measuring device". However as shown in figures 1-4, 6, and 7 the compass (Ref 14) is mechanically connected to the handheld laser distance measuring device and therefor give information of the handheld laser distance measuring device. Dunne does teach this sensor being part of the handheld laser distance measuring device and therefor does show a "laser distance measuring device, with a position sensor (22) for determining the spatial orientation of the distance measuring device" as claimed by the applicant in claim 1 and 11.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke D. Ratcliffe whose telephone number is 571-272-3110. The examiner can normally be reached on 10:00-5:00 M-Sun.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3662

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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LDR



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